

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF EXCHANGE

APPLICATION NUMBER E3346 (35-9914)

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MEMORANDUM DECISION

Exchange Application Number E3346 (35-9914), in the name of Bennion Development and Mkt Inc, was filed on October 7, 1994, to exchange 1.0 acre-foot of water as evidenced by U.S. Bureau of Reclamation and contract with Weber Basin Water Conservancy District under Water Right Numbers 35-7395 (A10989) and 35-827 (A27608). The 1.0 acre-foot of water is to be released into the Ogden River and, in lieu thereof, 1.0 acre-foot of water will be diverted from a six inch well, 100 feet to 400 feet deep, located South 3860 feet and West 80 feet from the NE Corner of Section 32, T 7N, R 3E, SLB&M, and used for the irrigation of 0.15 acre, the stockwatering of three cattle or equivalent, and the domestic purposes of one family.

The application was advertised in The Ogden Standard-Examiner from October 27, 1994, to November 10, 1994, and was not protested.

It appears that this exchange can be made provided certain precautions are observed.

It is, therefore, **ORDERED** and Exchange Application Number E3346 (35-9914) is hereby **APPROVED** subject to prior rights and the following conditions:

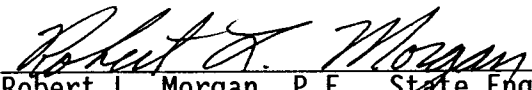
- 1) The basis for this exchange right is a contract between the applicant and Weber Basin Water Conservancy District. This contract must be maintained for this exchange to remain valid. No water may be withdrawn from the well if a contract is not in effect.
- 2) Total diversion under this exchange application for all uses applied for is limited to 1.0 acre-foot of water per year. These uses are limited to the irrigation of 0.15 acre, the stockwatering of three cattle or equivalent and the domestic purposes of one family. For the purpose of regulating this exchange, the applicant shall install a permanent totalizing meter to measure withdrawals from the well, which meter shall be available for inspection by the commissioner of the Weber River at any reasonable time.
- 3) The water being exchanged shall be released from Pineview Reservoir into the Ogden river as called for by the river commissioner.
- 4) Under the authority of Section 73-3-20 of the Utah Code, the applicant is required to submit a proof diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of

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Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been riled, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 14th day of April, 1995.

  
Robert L. Morgan, P.E., State Engineer

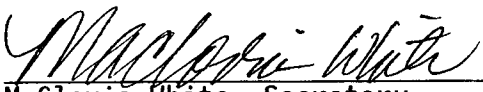
RLM:LFQ:mw

Mailed a copy of the foregoing Memorandum Decision this 14th day of April, 1995, to:

Bennion Development and Mkt Inc  
2160 Fillmore Ave  
Ogden, UT 84401

E. Blaine Johnson  
1615 E. Shadow Valley Drive  
Ogden, UT 84403

Weber Basin Water Conservancy District  
2837 East Highway 193  
Layton, UT 84040

BY:   
Maclovio White, Secretary